



PATENT

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March 20, 2002  
Date

Stephanie Jansen  
Stephanie Jansen

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Douglas D. Do and  
Jeff C. Johnson

Attorney Docket No.: 500414.02

Serial No. : 09/629,022

Group Art Unit : 2881

Filed : July 31, 2000

Examiner : Kalimah Fernandez

Title : APPARATUS FOR MEASURING FEATURES OF A SEMICONDUCTOR DEVICE

**DECLARATION OF DALE C. BARR IN SUPPORT  
OF PETITION TO REVIVE UNDER 35 C.F.R. § 1.137(a)**

Office of Petitions  
Box DAC  
Commissioner of Patents  
Washington, D.C. 20231

Sir:

I, Dale C. Barr, declare and state that:

The above-identified application was unintentionally abandoned for failure to file a timely and proper reply to the Office Action dated August 15, 2001. The entire delay in filing the Amendment from the due date until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was completely unintentional.

On or about November 1, 1999, I moved from my prior law firm of Seed & Berry to my present firm at the Seattle office of Dorsey & Whitney, along with approximately 2,500 pending patent and trademark applications.

Due to disorganization and utter chaos resulting from the transfer of such a massive amount of applications, along with the temporary understaffing during and directly after the move, the normal flow of work was disrupted. Because of the disruption, I was faced with an overwhelming amount of Office Actions to which I needed to reply. The instant application,

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along with two other applications, were transferred to the patent department of Dorsey & Whitney's central office located in Minneapolis, Minnesota, for further prosecution.

The patent department in Minneapolis prosecuted the Response to the Office Action dated December 20, 2000, the Response to the Final Rejection dated April 17, 2001 and Request for Continued Examination filed in response to an Advisory Action dated June 25, 2001. The Office Action dated August 15, 2001, was received in the Seattle office of Dorsey and Whitney on August 20, 2001, but, due to the fact that the instant application had been prosecuted for 17 months at the Minneapolis office, the docketing department failed to docket the Office Action into the Seattle database and instead sent the Office Action to Minneapolis for prosecution.

Unbeknownst to the Seattle docketing department, the three files sent to Minneapolis for prosecution in March of 2000 were in the process of being transferred back to the Seattle patent department. As such, upon receipt of the Office Action dated August 15, 2001, the Minneapolis docketing department, rather than docket the Office Action into their system, simply put the documents inside the file and sent the entire application file back to Seattle. After arrival in Seattle, the file was placed in the file room for storage as there was no indication in either the Seattle or Minneapolis docketing systems that a Response to Office Action was due in the instant application.

On February 27, 2002, Examiner Kalimah Fernandez telephoned me to ascertain if an Amendment had been filed in response to the Office Action dated August 15, 2001, as the six-month statutory time limit for responding expired on February 15, 2002, and no response was on record. As a result of the telephone call, the file was examined on February 28, 2002, and the Office Action dated August 15, 2001, was located inside.

As a result of organizational errors, and through no intent on the part of any person in the firm of Dorsey and Whitney, the above-referenced application was unintentionally abandoned.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code, and may jeopardize the validity of any patent issuing from this patent application.

I respectfully request that the Petition to Revive be accepted by the Patent and Trademark Office and the resulting patent be allowed to issue.

Dated this 20<sup>th</sup> day of March, 2002.

  
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Dale C. Barr

DCB:sj

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